

TEXTBOOK: Wilson 14th Edition, Chapter 5 (pp. 100-129), Chapter 6 (pp. 130-160)

OBJECTIVES

- 6.1 Discuss the relationship of the Bill of Rights to the concept of majority rule, and give examples of tension between majority rule and minority rights.
- 6.2 Explain how the civil liberties may at times be a matter of majoritarian politics and offer several examples.
- 6.3 Describe how the Supreme Court has used the Fourteenth Amendment to expand coverage in the federal system.
- 6.4 Discuss changing conceptions of the due process clause of the Fourteenth Amendment.
- 6.7 List the categories under which the Supreme Court may classify “speech.”
- 6.6 Explain the distinction between “protected” and “unprotected” speech and name the various forms of expression that are not protected under the First Amendment.
- 6.7 Describe the test used by the Court to decide the circumstances under which freedom of expression may be qualified.
- 6.8 Explain how the Supreme Court has made due process decisions, and how they have changed.
- 6.9 Contrast the experience of economic interest groups with that of African American groups in obtaining satisfaction for their interests from the government.
- 6.10 Describe the strategies used by African American leaders and explain why the civil rights movement has become more conventional.
- 6.11 Summarize the legal struggles of African Americans to secure rights under the Fourteenth Amendment, and indicate how the Court construed that amendment in the civil rights cases.
- 6.12 Discuss the NAACP strategy of litigation, and indicate why it was suited to the political circumstances.
- 6.13 Summarize the rulings in *Brown v. Board of Education* and compare them with those in *Plessy v. Ferguson*.
- 6.14 Describe the differences between the African American civil rights movement and the women’s movement.
- 6.15 Explain what is meant by “affirmative action,” and discuss how the ideals of equality of opportunity and equality of result play roles in the debate surrounding affirmative action.

OUTLINE

The Supreme Court originally focused on the establishment of national supremacy, but the scope of the courts’ political influence has increasingly widened as various groups and interests have acquired access to the courts, as the judges have developed a more activist stance, and as Congress has passed more laws containing vague or equivocal language. Still, the Supreme Court controls its own workload and grants certiorari to a very small percentage of appellate cases. As a result, although the Supreme Court is the pinnacle of the federal judiciary, most decisions are made by the twelve circuit courts of appeals and the ninety-four federal district courts.

In the present era, the judiciary has deliberated about personal liberties. Civil liberties are fundamental to political beliefs and political culture in the United States. Among the most important protections are those in the First Amendment freedoms of Speech, Religion, and Assembly. Also important has been the struggle to strike a balance between the right of society to protect itself and the right of all people to be free from unreasonable searches and coerced confessions. The resolution of these issues by the courts is political in the sense that there are competing opinions about what is right or desirable.

Through action in the courts and in the Congress, the Civil Rights movement profoundly changed the nature of Americans’ political participation. As revealed by the massive resistance to the early school desegregation decisions, Courts can accomplish little without strong political allies. However, they can accomplish a great deal, even in the face of adverse public opinion, when they have organized allies. The women’s movement has somewhat paralleled the organizational and tactical aspects of the African American civil rights movement. However, the women’s movement sought to repeal or reverse laws and court rulings that were allegedly designed to protect them. Abortion, affirmative action, and gay rights remain among the most divisive civil rights issues in United States politics today.

ESSENTIAL QUESTIONS

The purpose of this chapter is to give the student a preview of the major questions to be asked throughout the textbook and to introduce key terms. After reading and reviewing the material in this chapter the student should be able to do each of the following:

- Should fighting words be protected as a form of speech? What if the words are true? Should the First Amendment permit the punishment of truth?
- What is the Supreme Court’s current definition of obscenity? Is this definition clear?
- What regulations should be imposed on the Internet?
- What is a valid religion? How can courts distinguish fraudulent religious claims from legitimate ones?
- What exactly did the Fourteenth Amendment guarantee to African Americans?
- How could the Supreme Court rule that segregation was constitutional?
- How did the Court move from (a) interpreting the Fourteenth Amendment to mean that African Americans cannot be relegated to particular schools because of their race *to* (b) requiring that a particular racial balance must exist in schools?
- Would affirmative action be better handled by a legislature or bureaucratic agency?
- What similarities and differences can you discern between the African American civil rights movement and that

- for women? Latinos? Gays and lesbians?
- What differences exist in their reasoning about race-based versus gender-based inequities in treatment?
 - What are the most significant “women’s issues” on the current political agenda?

VOCABULARY

Due Process Of Law
Equal Protection
Selective Incorporation
Freedom Of Expression
Freedom Of Religion
Prior Restraint
Clear And Present Danger
Obscenity
Preferred Position
Imminent Danger
Neutrality
Clarity
Least Restrictive Means
Symbolic Speech
Free-Exercise Clause
Wall-Of-Separation

Exclusionary Rule
Search Warrant
Probable Cause
Good-Faith Exception
Establishment Clause
Libel
Civil Rights
Suspect Classification
Strict Scrutiny
Separate But Equal
De Jure Segregation
De Facto Segregation
Filibuster
Civil Disobedience
13th Amendment
Voter Registration

Jim Crow Laws
Equal Rights Amendment
Sexual Harassment
Quid Pro Quo
Police Powers
Color Blind
Equality Of Results
Affirmative Action
Compensatory Action
Reverse Discrimination
Equality Of Opportunity
Defense Of Marriage Act

Court Cases:
See List

CASES

Marbury v Madison
McCulloch v Maryland
US v Lopez
Burlington RR v Chicago
United States v Nixon
Clinton v Jones
NY City v Clinton
Citizens United v FEC
Gitlow v New York
NY Times v Sullivan
Miller v California

Tinker v Des Moines
Hazelwood v. Kuhlmeier
Texas v Johnson
Cantwell v Connecticut
Lemon v. Kurtzman
Loving v Virginia
McDonald v Chicago
Griswald v Connecticut
Roe v Wade
Planned Parenthood v Casey
Cruzan v Missouri Health

Mapp v Ohio
United States v Leon
Miranda v Arizona
Benton v Maryland
Gideon v Wainwright
Gregg v Georgia
Roper v Simmons
Plessy v. Ferguson
Brown v Board of Education
Regents v Bakke
Lawrence v Texas

CASES: